

DETAILED ACTION

Election/Restrictions

1. Claims 2, 3, 6, 7, 11, and 15-24 have withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/8/10.
2. Applicant's election with traverse of Group 1, Species B in the reply filed on 3/8/10 is acknowledged. The traversal is on the ground(s) that the unity of invention is satisfied because claims to different categories of invention are allowed if the claims are drawn to a product, a process specially adapted for the manufacture of the said product, and a use of the said product. The restriction/election was not based upon these differences. This is not found persuasive because an additional search would be necessary for the unelected claims.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 8, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gizowski et al. (U.S. Patent No. 6,432,307).

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5. Regarding Claims 1 and 10, Gizowski et al. discloses a sealed container in which a container body 16 (Figure 3) having an opening is sealed by a lid portion 14 (Figure 3) which closes and covers said opening, comprising a welded portion 62 (Figure 3) in which an outer wall surface of a peripheral portion of said opening and an inner wall surface of said lid portion are laser welded in order to make it possible for at least an inner wall surface of the peripheral portion of said opening from an inner wall surface of said container body to make contact with container contents (Figure 3).

6. Regarding Claim 4, Gizowski et al. discloses a non-welded portion in which an inner wall surface of a peripheral portion of said lid portion is not welded to an outer wall surface of said container body (Figure 3).

7. Regarding Claim 8, Gizowski et al. discloses a container body 16 (Figure 3) and a lid portion 14 (Figure 3) which are formed from synthetic resin (Column 2, Lines 24, 25, 36, 37).

8. Regarding Claims 12 and 13, Gizowski et al. discloses a laser light absorbing portion material in a portion of at least one of an outer wall surface of the peripheral portion of said opening (Column 2, Lines 36-37).

9. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner et al. (U.S. Pub. No. 2004/0031770).

10. Regarding Claim 1, Gardner et al. discloses a sealed container in which a container body 172 (Figure 15) having an opening is sealed by a lid portion 190 (Figure 15) which closes and covers said opening, comprising a welded portion (Paragraph 201) in which an outer wall surface of a peripheral portion of said opening and an inner

wall surface of said lid portion are laser welded in order to make it possible for at least an inner wall surface of the peripheral portion of said opening from an inner wall surface of said container body to make contact with container contents (Figure 15).

11. Regarding Claim 9, Gardner et al. discloses a container which is a beverage container (Paragraph 162).

12. Claims 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mongan, Jr. (U.S. Patent No. 2,462,988).

13. Regarding Claim 10, Mongan, Jr. discloses a method of manufacturing a sealed container in which a container body B (Figure 7) having an opening is sealed by a lid portion C (Figure 7) which closes and covers said opening (Figure 7), comprising the steps of: forming bonded surfaces by bonding an outer wall surface of a peripheral portion of said opening and an inner wall surface of said lid portion (Figure 7); and contacting at least an inner wall surface of the peripheral portion of said opening from an inner wall surface of said container body with container contents, wherein said bonded surfaces are irradiated with a laser to form a welded portion W (Figure 7).

14. Regarding Claim 14, Mongan, Jr. discloses a container body and a lid portion which are rotated around a rotation axis formed by the central axis of the container (Column 5, Lines 4-5).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gizowski et al. (U.S. Patent No. 6,432,307).

17. Regarding Claim 5, Gizowski et al. teaches all the limitations substantially as claimed except for a lid portion which has a thickness of 0.2 mm or higher. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a lid portion thickness of 0.2 mm or higher since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571) 270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781